

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

IN RE ESPAR ANTITRUST LITIGATION

No. 15-MC-940 (JG) (JO)

This Document Relates to:

All Cases

JOINT STATUS REPORT

Pursuant to the Court's June 5, 2015 Order, the undersigned hereby submit this Joint Status Report.

I. Cases Pending and Consolidated for Purposes of Pre-trial Discovery

The following related cases have been filed and, pursuant to the Court's May 27, 2015 Order,¹ are consolidated for pre-trial discovery in the above-captioned matter:

A. Direct Purchaser Actions

- *Triple Cities Acquisition LLC v. Espar, Inc. and Espar Products Inc.*, No. 15-cv-1343 ("Triple Cities");
- *National Trucking Reclamation Financial Services v. Espar, Inc., Espar North America, Inc. and Espar Products Inc.*, No. 15-cv-2310 ("National Trucking");
- *Trailer Craft Inc. v. Espar, Inc., Espar Products, Inc., Webasto Products North America, Inc. and Webasto Thermo & Comfort North America, Inc.*, No. 15-cv-2411 ("Trailer Craft");
- *Guay Brothers Co. v. Espar, Inc., Espar Products Inc., John E. Bishop, Volker Hohensee, Webasto Products North America, Inc. and Webasto Thermo & Comfort North America, Inc.*, No. 15-cv-3225 ("Guay Brothers");
- *Myers Equipment Corp. v. Espar, Inc., Espar Products Inc., Webasto Products North America, Inc. and Webasto Thermo & Comfort North America, Inc.*, No. 15-cv-3872 ("Myers Equipment"); and
- *Advance Diesel Service v. Espar Inc., Espar Products, Inc., Webasto Products North America, Inc., Webasto Thermo & Comfort North America, Inc., Marine Canada Acquisition Inc.* ("Advance Diesel") *d/b/a/ Seastar Solutions, Proheat Mechanical Systems Inc., and Proheat Canada*, No. 15-cv-04350 ("Advanced Diesel").

¹ ECF No. 28, *Raccoon Valley*, No. 15-cv-1338; ECF No. 28, *Triple Cities*, No. 15-cv-1343; ECF No. 24, *Regional International*, No. 15-cv-1798; ECF No. 19, *National Trucking*, No. 15-cv-2310; ECF No. 19, *Trailer Craft*, No. 15-cv-2411; and *Advance Diesel*, No. 15-cv-04350.

B. Indirect Purchaser Actions

- *Raccoon Valley Transport, Inc. and Audrius Labaviauskas v. Espar, Inc.*, No. 15-cv-1338 (“Raccoon Valley”);
- *Regional International Corp. and Mead’s Automotive v. Espar, Inc.*, No. 15-cv-1798 (“Regional International”);
- *Davidson Transfer, LLC v. Espar, Inc. and Espar Products, Inc.*, No. 15-cv-3005 (“Davidson”);
- *Thomas Johnson and Jim Steger v. Espar, Inc.*, No. 15-cv-3174; and
- *North Jersey Truck Ctr., Inc. v. Espar, Inc. and Espar Products, Inc.*, No. 15-cv-3290 (“North Jersey Truck”).

Defendants named in one or more of these actions include Espar, Inc., Espar Products Inc., Espar North America, Inc. (collectively, “the Espar Defendants”), Webasto Products North America, Inc., Webasto Thermo & Comfort North America, Inc. (collectively, “the Webasto Defendants”), former Espar executives Volker Hohensee and John E. Bishop, Marine Canada Acquisition Inc. d/b/a/ Seastar Solutions, Proheat Mechanical Systems Inc., and Proheat Canada.²

II. Leadership Motions

Competing motions and proposals for leadership appointments and leadership structure in both the IPP and DPP Actions are pending.³

² Complaints naming Espar entities only include: *Raccoon Valley*, *Regional International Corp.*, *Davidson Transfer, LLC*, *Johnson*, *North Jersey Truck Center*, *Triple Cities Acquisition*, and *National Trucking Reclamation Services*. Complaints naming Webasto entities, in addition to Espar entities, include: *Trailer Craft, Inc.*, *Guay Brothers*, *Myers Equipment Corporation* and *Advance Diesel Services*. In addition to Webasto and Espar entities, *Guay Brothers* named the two former Espar executives and *Advance Diesel* named the Proheat entities and Marine Canada Acquisition Inc.

³ Motions or proposals regarding the DPP leadership structure are:

Mot. to Appoint Counsel, *Triple Cities*, No. 15-cv-1343 (E.D.N.Y. Apr. 22, 2015) (ECF No. 14) (seeking appointment of Hausfeld LLP as interim lead counsel); Mot. for Appointment of Interim Lead Counsel for DPPs, *Trailer Craft Inc.*, No. 15-cv-2411 (E.D.N.Y. May 18, 2015) (ECF No. 9) (seeking appointment of Cera LLP as interim lead counsel and Klafter Olsen and Lesser LLP as liaison counsel); Mot. to Consolidate and for Appointment of Counsel, *National Trucking*, No. 15-cv-2310 (E.D.N.Y. Apr. 28, 2015) (ECF No. 10) (seeking appointment of Roberts Law Firm as interim lead counsel); Mot. to Appoint Counsel Kaplan Fox & Kilsheimer LLP Interim Class Counsel for the Proposed Direct Purchaser Class, No. 15-mc-940 (E.D.N.Y. June 12, 2015) (ECF

III. Status Conferences

Certain Parties have previously proposed that the Court hold quarterly status conferences commencing with the August 7, 2015 status conference. *See* ECF No. 6 (Joint Report of Certain Indirect Purchasers Counsel), ECF No. 8 (Status Report by Triple Cities).

No. 25) (seeking appointment of Kaplan Fox as lead or co-lead counsel); Status Report submitted by Triple Cities, No. 15-mc-940 (E.D.N.Y. June 5, 2015) (ECF No. 8) (noting amenability to an executive committee if a chair is appointed with certain enumerated responsibilities); Letter from Kaplan Fox, Cera LLP and the Roberts Law Firm to Hon. James Orenstein, No. 15-mc-940 (E.D.N.Y. June 5, 2015) (ECF No. 9) (proposing a four member DPP executive committee, noting unresolved issues related to chair of committee); Letter (Supplemental) in Supp. of Appointment of Hausfeld LLP & Roberts Law Firm as Co-Lead Counsel, No. 15-mc-940 (E.D.N.Y. June 19, 2015) (ECF No. 28) (proposing two-firm co-lead structure with Hausfeld LLP and Roberts Law as co-leads); Letter to Hon. James Orenstein pursuant to Order of June 9, 2015, No. 15-mc-940 (E.D.N.Y. June 19, 2015) (ECF No. 30) (proposing four-firm executive committee chaired by Cera LLP, Kaplan Fox, or Hausfeld LLP); Mot. to Appear by Telephone and letter to Hon. James Orenstein by Myers Equipment Corp., No 15-mc-940 (E.D.N.Y. July 7, 2015) (ECF No. 35) (supporting two-firm co-lead structure proposed by Hausfeld LLP and Roberts Law, or, if the court appoints an executive committee, membership on that committee).

Motions or proposals regarding the IPP leadership structure are:

Pls.' Mot. to Appoint Steve W. Berman as Interim Lead Class Counsel for IPPs (ECF No. 17), *Raccoon Valley*, No. 15-cv-1338 (E.D.N.Y. Apr. 15, 2015) (seeking appointment of Steve Berman and Hagens Berman Sobol Shapiro LLP as sole lead counsel for IPPs); Pls. Regional International Corp. and Mead's Automotive, LLC's Mot. Re: Appointment of Interim Co-Lead Class counsel for Indirect Purchaser Plaintiffs, *Regional International*, No. 15-cv-1798 (E.D.N.Y. Apr. 15, 2015) (ECF No. 17) (seeking appointment of Law Offices of Francis Scarpulla and Cooper & Kirkham, P.C. as interim co-lead counsel for IPPs); Mot. to Appoint Counsel: Joint Letter of Certain Indirect Purchaser Counsel Pursuant to Order Dated June 5, 2015, No. 15-mc-940 (E.D.N.Y. June 12, 2015) (ECF No. 26) (proposing executive committee structure with Regional International's counsel as co-chairs and appointment of liaison counsel).

See also Resp. to [Regional International Pls.] Mot. to Appoint Counsel, *Regional International*, No. 15-cv-1798 (E.D.N.Y. May 21, 2015) (ECF No. 22) (Raccoon Valley Pls.' response to Regional International Pls.' motion for appointment of their counsel); Reply re: Mot. to Appoint Counsel, No. 15-mc-940 (E.D.N.Y. June 19, 2015) (Regional International Pls.' Reply to Raccoon Valley Pls.' Resp. re: Regional International Pls. motion for appointment of their counsel); Interim Response to Joint Letter [at ECF No. 26], No. 15-mc-940 (E.D.N.Y. June 15, 2015) (ECF No. 27) (Raccoon Valley Plaintiffs' interim response to IPP leadership committee proposal); Response to Joint Letter [at ECF No. 26], No. 15-mc-940 (E.D.N.Y. June 19, 2015) (ECF No. 31).

IV. Case Caption

The Court previously consolidated the pending cases for pre-trial purposes under the caption *In re Espar Antitrust Litigation*. However, these consolidated cases now involve multiple defendants in addition to the Espar Defendants: the Webasto Defendants, Proheat Mechanical Systems, Inc., Proheat Canada, Marine Canada Acquisition Inc., d/b/a/ Seastar Solutions, and individual defendants Volker Hohensee and John Bishop. The parties therefore request that the Court change the caption set forth in its May 28, 2015 Order to *In re Parking Heaters Antitrust Litigation* to reflect more accurately the current scope of the consolidated cases.

Dated: July 31, 2015

Respectfully submitted,

| | |
|--|--|
| <p><u>s/ Francis O. Scarpulla</u> Francis O. Scarpulla LAW OFFICES OF FRANCIS O. SCARPULLA 456 Montgomery Street 17th Floor San Francisco , CA 94104 Telephone: (415)788-7210 E-mail: fos@scarpullalaw.com</p> <p>Josef D. Cooper Tracy R. Kirkham John D. Bogdanov COOPER & KIRKHAM, P.C. 357 Tehama Street, Second Floor San Francisco, CA 94103 Telephone: (415) 788-3030 Facsimile: (415) 882-7040 E-mail: jdc@coopkirk.com trk@coopkirk.com jdb@coopkirk.com</p> <p><i>Counsel for Indirect Purchaser Plaintiff Regional International Corp. and Mead's Automotive, LLC</i></p> | <p><u>/s/ Bonny E. Sweeney</u> Bonny E. Sweeney HAUSFELD LLP 600 Montgomery Street, Suite 3200 San Francisco, CA 94111 Telephone: (415) 633-1908 Facsimile: (415) 358-4980 Email: bsweeney@hausfeld.com</p> <p>Michael D. Hausfeld Seth R. Gassman HAUSFELD LLP 1700 K St. NW, Suite 650 Washington, D.C. 20006 Telephone: (202) 540-7200 Facsimile: (202) 540-7201 Email: mhausfeld@hausfeld.com sgassman@hausfeld.com</p> <p><i>Counsel for Direct Purchaser Plaintiff Triple Cities Acquisition LLC d/b/a Cook Brothers Truck Parts</i></p> |
|--|--|

| | |
|---|--|
| <p><u>//s/ W. Joseph Bruckner</u></p> <p>W. Joseph Bruckner Heidi M. Silton Elizabeth R. Odette Devona L. Wells LOCKRIDGE GRINDAL NAUEN P.L.L.P. 100 Washington Avenue South, Suite 2200 Minneapolis, MN 55401 Telephone: (612) 339-6900 Facsimile: (612) 339-0981 E-mail: wjbruckner@locklaw.com hsilton@locklaw.com erodette@locklaw.com dlwells@locklaw.com</p> <p>Steven N. Williams Alexander E. Barnett COTCHETT, PITRE & MCCARTHY, LLP 40 Worth Street, 10th Floor New York, NY 10013 Telephone: (212) 201-6820 Facsimile: (646) 219-6678 E-mail: swilliams@cpmlegal.com abarnett@cpmlegal.com</p> <p><i>Counsel for Indirect Purchaser Plaintiff North Jersey Truck Center, Inc.</i></p> | <p><u>//s/ Michael L. Roberts</u></p> <p>Michael L. Roberts Debra G. Josephson Stephanie E. Smith THE ROBERTS LAW FIRM 20 Rahling Circle Little Rock, AR 72223 Telephone: (501) 476-7391 Facsimile: (501) 821-4474 Email: mikeroberts@robertslawfirm.us stephaniesmith@robertslawfirm.us debrajosephson@robertslawfirm.us</p> <p>Joseph C. Kohn William E. Hoese Douglas A. Abrahams KOHN, SWIFT & GRAF, P.C. One South Broad Street Suite 2100 Philadelphia, PA 19107 Telephone: 215-238-1700 Facsimile: 215-238-1968 jkohn@kohnswift.com whoese@kohnswift.com dabrahams@kohnswift.com</p> <p>Jonathan W. Cuneo Taylor Asen CUNEO GILBERT & LADUCA, LLP 16 Court Street, Suite 1012 Brooklyn, NY 11241 Telephone: 202.789.3960 Facsimile: 202.589.1813 Email: jcuneo@cuneoloaw.com tasen@cuneolaw.com</p> <p><i>Counsel for Direct Purchaser Plaintiff National Trucking Financial Reclamation Services</i></p> |
| <p><u>//s/ Michael A. Toomey</u></p> <p>Michael A. Toomey BARRACK, RODOS & BACINE 11 Times Square 640 8th Avenue, 10th Floor New York, NY 10036 Telephone: 212.688.0782 Facsimile: 212.688.0783</p> | <p><u>//s/ Allan Steyer</u></p> <p>Allan Steyer D. Scott Macrae STEYER LOWENTHAL BOODROOKAS ALVAREZ & SMITH LLP One California Street Suite 300 San Francisco, CA 94111</p> |

| | |
|--|--|
| <p>Email: mtoomey@barrack.com</p> <p>Gerald J. Rodos Jeffrey B. Gittleman Julie B. Palley BARRACK, RODOS & BACINE Two Commerce Square 2001 Market Street, Suite 3300 Philadelphia, PA 19103 Telephone: (215)963.0600 Facsimile: 215.963.0838 Email: grodos@barrack.com jgittleman@barrack.com jpalley@barrack.com</p> <p>William M. Audet Jonas P. Mann AUDET & PARTNERS, LLP 221 Main Street, Suite 1460 San Francisco, CA 94105-1938 Telephone: (415)568-2555 Facsimile: (415) 568-2556 waudet@audetlaw.com jmann@audetlaw.com</p> <p><i>Counsel for Indirect Purchaser Plaintiffs Thomas Johnson and Jim Steger</i></p> | <p>Telephone: (415) 421-3400 Facsimile: (415) 421-2234 Email: asteyer@steyerlaw.com smacrae@steyerlaw.com</p> <p><i>Counsel for Direct Purchaser Plaintiff Myers Equipment Corp.</i></p> |
| <p><u>/s/ Steve W. Berman</u></p> <p>Steve W. Berman HAGENS BERMAN SOBOL SHAPIRO LLP 1918 Eighth Avenue, Suite 3300 Seattle, Washington 98101 Telephone: 206-623-7292 Facsimile: 206-623-0594 Email: steve@hbsslaw.com</p> <p>Elizabeth A. Fegan Jason A. Zweig Daniel J. Kurowski HAGENS BERMAN SOBOL SHAPIRO LLP 455 W. Cityfront Plaza Drive, Suite 2410 Chicago, Illinois 60611 Telephone: 708-628-4949 Facsimile: 708-628-4950 Email: beth@hbsslaw.com jasonz@hbsslaw.com</p> | <p><u>/s/ Robert N. Kaplan</u></p> <p>Robert N. Kaplan Gregory K. Arenson Lauren I. Dubick KAPLAN FOX & KILSHEIMER LLP 850 Third Avenue, 14th Floor New York, NY 10022 (212) 687-1980 Email: rkaplan@kaplanfox.com garenson@kaplanfox.com ldubick@kaplanfox.com</p> <p><i>Counsel for Direct Purchaser Plaintiffs Guay Brothers Company and Advance Diesel Service</i></p> |

| | |
|--|---|
| <p>dank@hbsslaw.com</p> <p><i>Counsel for Indirect Purchaser Plaintiffs Raccoon Valley Transport, Inc. and Audrias Labaciuskas</i></p> | |
| <p><u>/s/ Daniel C. Hedlund</u></p> <p>Daniel C. Hedlund</p> <p>Daniel E. Gustafson</p> <p>Jason S. Kilene</p> <p>Daniel J. Nordin</p> <p>GUSTAFSON GLUEK PLLC</p> <p>120 South 6th Street</p> <p>Suite 2600</p> <p>Minneapolis, MN 55402</p> <p>Telephone: (612)333-8844</p> <p>Facsimile: (612)339-6622</p> <p>Email: dgustafson@gustafsongluek.com</p> <p>jkiline@gustafsongluek.com</p> <p>dhedlund@gustafsongluek.com</p> <p>dnordin@gustafsongluek.com</p> | <p><u>/s/ Solomon B. Cera</u></p> <p>Solomon B. Cera</p> <p>CERA LLP</p> <p>595 Market Street, Suite 2300</p> <p>San Francisco, California 94105</p> <p>Telephone: (415) 777-2230</p> <p>Email: scera@cerallp.com</p> <p>cdirksen@cerallp.com</p> |
| <p>Alexander E. Barnett</p> <p>COTCHETT, PITRE & MCCARTHY, LLP</p> <p>40 Worth Street, 10th Floor</p> <p>New York, NY 10013</p> <p>Tel: (212) 201-6820</p> <p>Fax: (646) 219-6678</p> <p>Email: abarnett@cpmlegal.com</p> | <p>C. Andrew Dirksen</p> <p>CERA LLP</p> <p>Prudential Tower</p> <p>800 Boylston Street, 16th Floor</p> <p>Boston, MA 02199</p> <p>Telephone: (857) 453-6555</p> <p>Email: cdirksen@cerallp.com</p> |
| <p>Steven N. Williams</p> <p>COTCHETT, PITRE & MCCARTHY, LLP</p> <p>840 Malcolm Rd., Suite 200</p> <p>Burlingame, CA 94010</p> <p>Tel: (650) 697-6000</p> <p>Fax: (650) 697-0577</p> <p>Email: swilliams@cpmlegal.com</p> | <p>Jeffrey A. Klafter</p> <p>KLAFTER OLSEN & LESSER LLP</p> <p>Two International Drive, Suite 350</p> <p>Rye Brook, NY 10573</p> <p>Telephone: (914) 934-9200</p> <p>Email: jak@klafterolsen.com</p> |
| <p>Simon B. Paris</p> <p>Patrick Howard</p> <p>SALTZ, MONGELUZZI, BARRETT & BENEDESKY, P.C.</p> <p>1650 Market Street, 52nd Floor</p> <p>Philadelphia, PA 19103</p> <p>Telephone: (215) 496-8282</p> <p>Facsimile: (215) 496-0999</p> <p>Email: sparis@smbb.com</p> <p>phoward@smbb.com</p> | <p><i>Counsel for Direct Purchaser Plaintiffs Trailercraft Inc. and Advance Diesel Service</i></p> |

| | |
|--|---|
| <p>Patrick W. Michenfelder GRIES LENHARDT MICHENFELDER ALLEN P.L.L.P. 12725 43rd Street NE, Suite 201 St. Michael, Minnesota 55376 Telephone: (763) 497-3099 Facsimile: (763) 497-3639 Email: pat@glmalaw.com</p> <p><i>Counsel for Indirect Purchaser Plaintiff Davidson Transfer LLC</i></p> | |
| <p><u>/s/ Andrew J. Frackman</u> Andrew J. Frackman O'MELVENY & MYERS LLP Times Square Tower 7 Times Square New York, NY 10036 Telephone: (212) 326-2017 Facsimile: 212-326-2061 Email: afrackman@omm.com</p> | <p><u>/s/ John Clayton Everett</u> John Clayton Everett MORGAN, LEWIS & BOCKIUS LLP 1111 Pennsylvania Avenue, NW Washington, DC 20004 Telephone: (202) 739-3000 Facsimile: 202-739-3001 Email: jeverett@morganlewis.com</p> |
| <p><i>Counsel for Espar Inc., Espar Products, Inc., and Espar North America, Inc.</i></p> | <p><i>Counsel for Defendants Webasto Products North America, Inc., and Webasto Thermo & Comfort North America, Inc.</i></p> |